

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Bridging the Digital Divide for Low-Income Consumers)	WC Docket No. 17-287
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	

REPLY COMMENTS OF TRACFONE WIRELESS, INC.

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EXECUTIVE SUMMARY

TracFone Wireless, Inc. (“TracFone”) hereby offers reply comments in support of its Emergency Petition urging the Federal Communications Commission (“FCC” or “Commission”) to correct the Universal Service Administrative Company’s (“USAC”) implementation of the National Verifier, the system that will enable USAC to verify the eligibility of subscribers applying or recertifying to receive benefits from the Universal Service Fund’s Lifeline program.

TracFone’s Petition makes clear that USAC’s implementation is fatally flawed and will hurt subscribers because USAC seeks to “hard launch” the Verifier in states where it lacks access to databases that would verify subscriber eligibility in an automated fashion based on enrollment in qualifying federal benefits programs, including, in many cases, Medicaid. Without access to these databases, eligibility based on enrollment in these programs will be verified through a cumbersome manual process, placing enormous burdens on both USAC and subscribers. To make matters worse, USAC has declined to accept reputable third party evidence of eligibility through the manual process, such as managed care organization (“MCO”) letterhead proof of Medicaid enrollment. To remedy these missteps, which threaten both the success of the Verifier and the health of the Lifeline program, TracFone urged the Commission to direct USAC to expeditiously secure access to key databases and to delay launching the Verifier in a given state until such access is secured. In the alternative, TracFone asked the Commission to direct USAC to accept reliable third party documentation such as MCO letterhead through the Verifier’s manual enrollment process.

A number of commenters weighed in on TracFone’s Petition, and the record is clear—the Commission must intervene in the deployment of the Verifier and grant the relief requested by TracFone. The sole commenter to oppose TracFone’s Petition misunderstands both the Petition

and relevant FCC orders. To ensure that the Commission's objectives for the Verifier and the Lifeline program are fulfilled, the Commission must grant TracFone's Petition.

TABLE OF CONTENTS

I. THE RECORD MAKES CLEAR THAT THE COMMISSION MUST REQUIRE USAC TO OBTAIN ACCESS TO KEY DATABASES BEFORE HARD LAUNCHING THE NATIONAL VERIFIER IN A GIVEN STATE.	2
II. THE COMMISSION SHOULD DISREGARD THE COMMENTS OF USTELECOM, WHICH MISCHARACTERIZE TRACFONE’S PETITION AND RELEVANT FCC ORDERS AND BELIE THE POLICY OBJECTIVES OF THE VERIFIER.	9
III. CONCLUSION	13

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REPLY COMMENTS OF TRACFONE WIRELESS, INC.

TracFone Wireless Inc. (“TracFone”), through its attorneys, hereby offers these reply comments in support of its Emergency Petition urging the Federal Communications Commission (“FCC” or “Commission”) to direct the Universal Service Administrative Company (“USAC”) to alter its implementation of the National Verifier for the Commission’s Universal Service Fund (“USF”) Lifeline program in the interest of ensuring that eligible subscribers will continue to have reasonable access to the program.¹ There is significant support for TracFone’s Petition in the record, with the vast majority of commenters agreeing with TracFone about the need for Commission intervention with respect to the implementation of the Verifier and the Verifier’s use of data sources. Further, the only comments in opposition misconstrue TracFone’s Petition and relevant FCC orders, and seek an outcome to this proceeding that is inconsistent with the Commission’s policy objectives. The Commission should disregard the one misguided

¹ Emergency Petition of TracFone Wireless, Inc. for an Order Directing USAC to Alter the Implementation of the National Verifier to Optimize the Automated and Manual Eligibility Verification Processes, WC Docket Nos. 17-287, 11-42 & 09-197 (filed Aug. 9, 2018) (“Petition”).

opposition, heed the robust record in support of National Verifier intervention, and grant TracFone's Petition.

I. THE RECORD MAKES CLEAR THAT THE COMMISSION MUST REQUIRE USAC TO OBTAIN ACCESS TO KEY DATABASES BEFORE HARD LAUNCHING THE NATIONAL VERIFIER IN A GIVEN STATE.

In its Petition, TracFone explained that despite USAC's best efforts for the National Verifier, USAC's lack of access to key databases to verify subscriber eligibility, particularly those demonstrating enrollment in Medicaid, would have serious negative consequences for subscriber verification, continued enrollment in the Lifeline program, and the administrative burdens that would be imposed on USAC.² Accordingly, TracFone urged the Commission, in its policy oversight role over the National Verifier, to direct USAC to delay the implementation of the National Verifier in a given state only until USAC has access in that state to state and/or federal data sources necessary to verify subscribers using the automated process based on the top qualifying assistance programs, including Medicaid.³ In the alternative, TracFone requested that the Commission direct USAC to accept MCO letterhead verification of subscriber eligibility through the National Verifier's manual process until the databases are available through the automated process in a given state.⁴

Multiple entities submitted comments in response to the Petition, and the resulting record is replete with support for the relief requested by TracFone with respect to USAC's implementation of the Verifier. With the exception of one set of comments, which is discussed further in Section II, *infra*, these commenters—the National Lifeline Association, (“NaLA”)

² *Id.* at 8-13.

³ *Id.* at 13-14.

⁴ *Id.* at 15-17.

Sprint Corporation, Q Link Wireless, and TruConnect (collectively, the “Majority Commenters”)—unanimously support grant of TracFone’s Petition.

TracFone detailed in its Petition how the soft launch of the National Verifier in six states evinced the significant lack of access to qualifying Federal program enrollment databases to enable automated verification of Lifeline eligibility,⁵ which the record confirms. Despite the Commission’s expectation that the Verifier would “‘accommodate and utilize many of the varying state databases available,’ and that the automated process ‘[would] produce at least near real-time results,’”⁶ TruConnect explains, “[t]his has not been the result of the soft launch.”⁷ Specifically, “[i]n addition to Medicaid information only being available in half of the soft launch states, in at least one of the six soft launch states automated verification from Supplemental Security Income (“SSI”), Veterans Pension, Tribal Programs, and Supplemental Nutrition Assistance Program (“SNAP”) is not available.”⁸ Moreover, as Sprint points out in its comments, to its knowledge “USAC has not publicly disclosed the status of its negotiations to secure access to the Medicaid, SNAP, and SSI program databases in any of the remaining 44 states,”⁹ thus providing no indication that this gap in database access will be resolved anytime soon.

The Majority Commenters agree that as long as USAC continues to lack automated access to enrollment databases for key Lifeline-qualifying federal programs such as Medicaid,

⁵ Petition at 6.

⁶ Comments of Sage Telecom Communications, LLC d/b/a TruConnect, WC Docket Nos. 17-287, 11-42 & 09-197, at 3 (filed Sept. 12, 2018) (“TruConnect Comments”) (quoting *Lifeline and Link Up Reform and Modernization*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, ¶ 178 (2016)).

⁷ TruConnect Comments at 3.

⁸ *Id.*

⁹ Comments of Sprint Corporation, WC Docket Nos. 17-287, 11-42 & 09-197, at 3 (filed Sept. 12, 2018) (“Sprint Comments”).

SNAP, and SSI, the National Verifier will contradict the Commission’s objectives and harm consumers. As NaLA explains, hard-launching the National Verifier without having access to these databases will “impose[] unnecessary costs and burdens on consumers and the National Verifier administration.”¹⁰ Because of USAC’s failure to obtain access to key databases, “many consumers that are not in federally subsidized housing or receiving SNAP food assistance will not be able to have their eligibility verified automatically by the National Verifier.”¹¹

With respect to the burdens USAC will incur from its administration of the Verifier, Sprint observes that although “USAC certainly has anticipated the need to perform some manual eligibility reviews . . . , it is not clear whether NV staffing levels and budgets will be sufficient to accommodate the significant volume of manual reviews that will be required if the NV does not have automated access to federal program databases.”¹² Because “[i]n Sprint’s experience, a paper review costs almost *four times* as much as an automated (API) database check,” the level of manual review under USAC’s current implementation trajectory “will be extremely costly, in contravention to one of the Commission’s central goals of establishing a cost-effective eligibility process[.]”¹³ Sprint further notes that the Verifier’s inability to perform a sufficient level of automated verification will impose additional costs to Eligible Telecommunications Carriers (“ETCs”), including the costs resulting from checking customer archives to support the eligibility of unverified subscribers, engaging in outreach to navigate the manual Verifier

¹⁰ Comments of the National Lifeline Association, WC Docket Nos. 17-287, 11-42 & 09-197, at 2 (filed Sept. 12, 2018) (“NaLA Comments”).

¹¹ Comments of Q Link Wireless, WC Docket Nos. 17-287, 11-42 & 09-197, at 3 (filed Sept. 12, 2018) (“Q Link Comments”).

¹² Sprint Comments at 5.

¹³ *Id.*

process, the delay in subscriber enrollment as a result of the manual process, and the denial or cancelation of benefits for eligible subscribers who do not complete the manual process.¹⁴

In its comments, Q Link emphasizes the harm to consumers that will result from prematurely hard-launching the Verifier without access to key databases. The consumers relegated to the manual process, Q Link explains, “will be forced to find and upload various documents confirming their eligibility to the National Verifier—without the help of carriers if they are applying online rather than in-person.”¹⁵ Further, “[b]ecause these important program databases are not yet included, the burden of navigating cumbersome manual procedures will disproportionately fall on those who are sick, disabled, or elderly, including wartime veterans and survivors.”¹⁶ Similarly, “Sprint is concerned that the complexity of [the manual verification] process will discourage low income Americans from seeking Lifeline service at all, or will lead a significant number of end users to abandon the process out of frustration or confusion.”¹⁷

The National Verifier’s lack of access to key databases not only will harm prospective Lifeline subscribers, but existing beneficiaries as well, as the Verifier will perform the one-time “reverification” of all existing NLAD subscribers in states where it has been soft-launched. TracFone currently offers Lifeline service in half of the soft-launch states: Mississippi, New Mexico, and Utah. Of these three states, the National Verifier does not have access to a Medicaid state database in Mississippi to conduct automated verification. Unsurprisingly, nearly half of all TracFone’s Lifeline subscribers in Mississippi failed the automated eligibility check conducted by USAC. Overall, over 40 percent of TracFone’s Lifeline customers in the soft launch states

¹⁴ *Id.*

¹⁵ Q Link Comments at 3.

¹⁶ *Id.*

¹⁷ Sprint Comments at 6.

failed the automated eligibility check, which means over 23,000 of TracFone’s existing customers have to provide acceptable eligibility documents in order to retain their Lifeline-supported services, even if they had just gone through the eligibility verification process and enrolled in the program recently. Even more egregiously and inexplicably, for consumers who joined Lifeline before January 2018, USAC now requires service providers to collect a new National Verifier application with certifications, along with new proof of eligibility. Such burdensome requirements serve no apparent purpose in furthering the objectives of the reverification process, yet carry with them tremendous risk of de-certifying a significant portion of existing Lifeline customers who are otherwise eligible and verifiable by automated means. Indeed, NaLA observes that “80 percent of subscribers in Colorado [where USAC has access to SNAP, Medicaid, and Federal Public Housing Assistance databases] who were required to reverify by August 30, 2018 were successfully reverified by the eligibility databases. By contrast, Wyoming, where USAC only has access to the FPHA database, had a mere two percent success rate in reverifications through an eligibility database for the same period.”¹⁸ As the experience with the soft launch demonstrates, USAC’s premature deployment of the Verifier without sufficient database access threatens to significantly thwart and complicate the recertification/reverification process, to the detriment of consumers who have come to rely on their Lifeline services.

Simply put, the record in this proceeding makes clear that “TracFone . . . correctly explained [in its Petition] that launching the National Verifier without the ability to verify subscriber eligibility based on information from key state databases undermines the policy goals

¹⁸ NaLA Comments at 2.

of the Commission when it established the National Verifier in 2016,”¹⁹ and that USAC’s current level of database access “is not an environment to support mandatory use of the National Verifier.”²⁰ Accordingly, the Majority Commenters agree that the Commission should grant TracFone’s Petition and “instruct[] USAC to launch the National Verifier only in states where it has access to the necessary eligibility databases,”²¹ including the “Medicaid, SNAP, and SSI program databases.”²²

Multiple commenters also agree with TracFone that should the Commission allow the hard launch of the National Verifier to continue despite USAC’s lack of access to key databases, the Commission should “direct[] USAC to accept proof of eligibility from [managed care organizations (“MCOs”)].”²³ Q Link observes that “[t]here is no reason to exclude verifications from managed care organizations that have no incentive to fabricate whether a patient is Medicaid-eligible.”²⁴ Accordingly, USAC’s exclusion of this and other “reasonable evidence of eligibility . . . would not prevent waste or fraud, but serve only as a barrier to eligible enrollment.”²⁵ Permitting the submission of eligibility documentation such as MCO letterhead proof would “alleviate some of the inefficiencies and help to diminish the risk of abuse and fraud from only utilizing a manual verification process,”²⁶ thereby “mak[ing] the National Verifier more efficient and effective for USAC, consumers and service providers.”²⁷

¹⁹ TruConnect Comments at 2.

²⁰ Q Link Comments at 3.

²¹ NaLA Comments at 3. *See also* TruConnect Comments at 2.

²² Sprint Comments at 6.

²³ NaLA Comments at 3.

²⁴ Q Link Comments at 3.

²⁵ *Id.*

²⁶ TruConnect Comments at 4.

²⁷ NaLA Comments at 3.

Importantly, as TracFone explained in its Petition, granting the alternative relief TracFone requests—directing USAC to accept reliable third party documentation as proof of eligibility through the Verifier’s manual process—would not require any additional rulemaking or similar action by the Commission. TracFone’s Petition made clear that multiple statements in the Commission’s *2016 Lifeline Reform Order* adopting the Verifier confirm that the Commission expected and therefore would permit USAC to use third party documentation of this nature.²⁸ Further, the Petition also established that the Commission retained the authority to oversee “the development, implementation, and performance management of the National Verifier.”²⁹ Given that the use of reliable third party documentation is consistent with the FCC’s vision for the Verifier, would not require a change in FCC rules or similar FCC action, and would serve only to make the manual verification process more efficient for USAC and subscribers, there is no reason to deny this relief.³⁰

²⁸ See Petition at 16 (“Indeed, in the *2016 Lifeline Reform Order* the Commission explained its expectation that ‘the program databases checked [through the National Verifier] should, to the extent possible, include those owned by states, those owned by Federal entities, or those owned by other entities.’ The Commission further clarified that “USAC may also as part of developing and maintaining the National Verifier, procure from other entities (including other government entities), access to or connection with databases and systems[.]” (alterations in original).

²⁹ *Id.* at 13 (citing *2016 Lifeline Reform Order* ¶ 126).

³⁰ It appears that USAC has issued updated guidelines on the accepted documentation for the National Verifier’s manual verification process, and that under these updated guidelines, USAC would accept MCO letterhead proof of Lifeline eligibility. See USAC, “National Verifier Acceptable Documentation Guidelines” at 3, 5 (revised Sep. 6, 2018), <https://www.usac.org/res/documents/li/pdf/nv/Guidelines-Accepted-Docmentation-Service%20Providers.pdf> (explaining that accepted documents must be “[i]ssued by a federal, state, or local government, program administrator *or MCO*, or Tribal program” and that qualifying documentation for demonstrating eligibility based on Medicaid enrollment includes “[p]rogram approval letter or benefit statement issued by the federal or state government *or MCO*”) (emphasis added). It is unclear whether this reflects USAC’s current policy and, if it does, whether this policy contemplates the type of documentation the Petition requests that USAC accept through the manual process.

II. THE COMMISSION SHOULD DISREGARD THE COMMENTS OF USTELECOM, WHICH MISCHARACTERIZE TRACFONE’S PETITION AND RELEVANT FCC ORDERS AND BELIE THE POLICY OBJECTIVES OF THE VERIFIER.

Despite the significant support in the record for TracFone’s Petition, one commenter—the United States Telecom Association (“USTelecom”)—opposes TracFone’s call to correct course on the National Verifier’s implementation. USTelecom’s comments mischaracterize TracFone’s Petition and the FCC’s orders regarding Verifier adoption and implementation. Moreover, in asking the Commission to deny TracFone’s Petition, USTelecom would have the Commission completely disregard its policy objectives for the Verifier. Accordingly, the Commission should disregard USTelecom’s opposition.

First, USTelecom inaccurately casts TracFone’s Petition as asking the Commission to “indefinitely delay implementation”³¹ and “halt[] the deployment of the National Verifier.”³² However, the Petition expressly states that any delay in launching Verifier should be limited only to states where USAC lacks access to necessary and appropriate databases. Specifically, TracFone’s Petition “urges the Commission. . . to direct USAC to delay the implementation of the National Verifier *in a given state* until USAC has access to state and/or federal data sources necessary to verify subscribers in that state using the automated process. . . .”³³ Elsewhere in the Petition, TracFone repeatedly urges the Commission to direct USAC to “expedite efforts to obtain access to key databases.” The purpose of the Petition is thus not to introduce new rationale for delaying the rollout of the National Verifier, but to ensure that USAC has sufficient access to databases prior to any hard launch as to enable the automated eligibility verification in

³¹ Comments of The United States Telecom Association, WC Docket Nos. 17-287, 11-42 & 09-197, at 6 (filed Sept. 12, 2018) (“USTelecom Comments”).

³² *Id.*

³³ Petition at 3 (emphasis added).

a meaningful way. If the goal of the Petition was to induce indefinite delay in the implementation of the Verifier, then TracFone would not have sought to make MCO letterhead proof of eligibility a form of acceptable eligibility documentation for the manual review process – a critical aspect of the Petition that USTelecom completely ignores.

USTelecom next mischaracterizes the Commission’s goals for the Verifier, insisting that “TracFone fails to acknowledge that the Commission’s principal cost concerns were associated with *Lifeline providers*’ administrative costs, and not those of USAC.”³⁴ The suggestion that the Commission is unconcerned with the costs incurred by USAC is spurious and irresponsible. The costs incurred by USAC to administer the Universal Service Fund are borne by the contributors and, by extension, their customers; any administrative efficiencies USAC achieves directly impact the health of the Fund and the level of waste in the program. Indeed, the Commission acknowledged as much in the 2016 *Lifeline Reform Order* cited by USTelecom, in which the Commission explained that its “key objectives” for the Verifier were to “protect against and reduce waste, fraud, and abuse; to lower costs *to the Fund* and Lifeline providers through administrative efficiencies; and to better serve eligible beneficiaries[.]”³⁵ Moreover, the Commission expressly acknowledged in the Order that “electronic certification of eligibility will generally have lower long-run costs relative to labor-intensive manual certification.”³⁶ Access to databases that would enable automated eligibility verification is therefore central to the Commission’s cost-saving objective for creating the National Verifier.

Similarly misguided is USTelecom’s argument that because the Verifier was designed to allow for some manual review, the pervasive lack of database access relegating the majority of

³⁴ USTelecom Comments at 3 (emphasis added).

³⁵ *Lifeline and Link Up Reform and Modernization*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, ¶ 128 (2016) (emphasis added) (“*2016 Lifeline Reform Order*”).

³⁶ *Id.* ¶ 135.

eligible subscribers to manual review is somehow appropriate or consistent with the Commission’s goals. Specifically, USTelecom asserts that the Commission “repeatedly acknowledged” in its *2016 Lifeline Reform Order* that “the National Verifier will have both electronic *and manual methods* to process eligibility determinations,” and accordingly that TracFone’s Petition “seeks to overturn an administrative and operational reality associated with implementation of the National Verifier[.]”³⁷ This completely misunderstands the “operational realit[ies]” that the Commission envisioned. Although manual review is a necessary component of the Verifier—qualification based on household income as opposed to qualifying federal program enrollment will always need to be verified manually—the Commission expressly stated that its “long-term goal should be to determine the eligibility of most subscribers through the more efficient means of electronic certification.”³⁸ The Commission went on to “direct USAC to seek the most cost effective and efficient means to incorporate electronic eligibility certification into the National Verifier wherever feasible.”³⁹ TracFone’s Petition does not seek to “overturn . . . administrative and operational realit[ies],” but instead to have USAC take further steps to meet its obligation to incorporate electronic certification into the National Verifier in an efficient and cost effective manner, consistent with the directive imposed on the *2016 Order*.

Nor do the other FCC statements quoted by USTelecom undermine TracFone’s plain reading of the *2016 Order* as related to the objectives for the Verifier and the advisability of the proposal advanced in TracFone’s Petition. For instance, USTelecom asserts that although the Commission “acknowledged the fact that [manual review] would be ‘costly, burdensome, and inefficient,’ . . . rather than proposing any delay in implementation of the National Verifier, the

³⁷ US Telecom Comments at 4 (quoting *2016 Lifeline Reform Order* ¶ 126).

³⁸ *2016 Lifeline Reform Order* ¶ 135.

³⁹ *Id.*

Commission only asked how it could ‘encourage states to work cooperatively with USAC to avoid unnecessary costs.’”⁴⁰ First, nothing about the Commission posing this question undermines the relief sought by TracFone: delay of hard launch of the Verifier in a given state until reasonable database access is secured is a perfectly reasonable means to “encourage states to work cooperatively with USAC.” Second, in highlighting this question USTelecom flatly ignores others that the Commission asked with respect to this issue, including whether the Commission should “adopt specific benchmarks or proposed timelines” to “guide [the] process” of states launching the Verifier, and the broad question of whether “there [are] other measures the Commission should take” if “a state has demonstrated an unwillingness to engage the effort to deploy the National Verifier or to do so at reasonable costs.”⁴¹ Moreover, the Commission also made clear in this discussion its belief that, as compared with conducting manual review, “program expenses would be better directed towards electronic connections between state systems and the National Verifier platform.”⁴² TracFone’s Petition is therefore perfectly consistent with FCC orders pertaining to the adoption and implementation of the Verifier, and USTelecom has failed to demonstrate otherwise.

Finally, USTelecom’s proposed outcome—that the Commission deny TracFone’s Petition—would directly undermine the objectives for the Verifier and the Lifeline program. In advocating for this result, USTelecom appears to be singularly concerned with lessening the cost of Lifeline participation for its member service providers by offloading manual eligibility determinations onto USAC, regardless of the impact on the program. Indeed, USTelecom would

⁴⁰ US Telecom Comments at 4 (quoting *Lifeline and Link Up Reform and Modernization*, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 FCC Rcd 10475, ¶ 61 (2017) (“*2017 NPRM*”).

⁴¹ *2017 NPRM* ¶ 61.

⁴² *Id.*

have USAC absorb the verification costs from service providers hastily, asserting that “[d]elayed access or no access to a state database should not impede moving forward with the National Verifier transition so that providers can be removed from the eligibility determination process[,]”⁴³ because it represents providers who are most interested in being relieved of their carrier of last resort obligations, including the obligation to offer Lifeline services. TracFone has never objected to other carriers’ efforts to exit the Lifeline marketplace, especially if it is done so properly through the relinquishment of their ETC designation with state utility commissions. USTelecom, however, is attempting to realize cost-savings for its members by asking the Commission to ignore the serious implications of shifting the role of verification to USAC before USAC has reasonable access to databases to conduct automatic verification. Where, as here, “delayed access to certain databases or unresolved administrative issues” threaten to stymie Lifeline enrollment and continued service to existing customers, impose significant unnecessary administrative costs on USAC, and otherwise prevent the Verifier from working as intended, such issues certainly should “delay or interrupt the full transition to the National Verifier.”⁴⁴

III. CONCLUSION

Consistent with the foregoing, TracFone urges the Commission to grant TracFone’s Emergency Petition asking the Commission to accelerate the National Verifier’s access to state and/or federal data sources necessary to verify subscribers using the automated process and refrain from launching the National Verifier in a given state until USAC has incorporated eligibility verification based on enrollment in key federal benefits programs, such as Medicaid, into the Verifier’s automated process for that state. In the alternative, the Commission should

⁴³ USTelecom Comments at 5-6.

⁴⁴ *Id.* at 6.

direct USAC to accept third party-generated proof of Lifeline eligibility, such as MCO letterhead proof of Medicaid enrollment, through its manual verification process.

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